THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10320 of 2007

Dated: 17-07-2007

Between:

V.Ashwani Kumar.

..... PETITIONER

AND

The Government of A.P., rep.by its Secretary, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10320 of 2007

ORDER:

The petitioner is statedly in possession of a small piece of land admeasuring 297 sq. yards in survey No.497, where he constructed a house bearing door No.1-3/1 situated at Balaji Nagar, Jawahar Nagar, Shameerpet Mandal, Rranga Reddy District. Alleging that on 26.09.2006, fourth respondent tried to dispossess the petitioner, he filed W.P.No.21410 of 2006. The same was disposed of by this Court on 16.10.2006 observing that the writ petition is filed on mere apprehension and that it shall be open to fourth respondent to evict the petitioner after following due process of law. Purporting to follow the observations made by this Court in said writ petition, fourth respondent has issued a notice dated 15.11.2006 under Section 6 of the Andhra Prachesh Land Encroachment Act, 1905(the Act, for brevity), calling upon the petitioner to vacate the land within a period of forty-eight hours. The same is assailed in this writ petition.

After getting instructions, the learned Assistant Government Pleader for Revenue submits that the order/notice dated 15.11.2006 issued by fourth respondent under Section 6 of the Act was not preceded by a notice under Section 7 of the Act, which is precisely the contention in support of the writ petition. On this reason alone the impugned notice dated 15.11.2006 is set aside. Fourth respondent is directed to first to issue notice under Section 7 of the Act if it is found that occupation/encroachment by the petitioner in survey No.497 is objectionable, obtain an explanation from him and then pass order/issue notice under Section 6 of the Act.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

17th July, 2007

ghn